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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,169	08/21/2001	Larry A. Druga	114302.1721	6443
30734	7590	10/01/2003	EXAMINER	
BAKER + HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			CECIL, TERRY K	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/933,169

Applicant(s)

DRUGA, LARRY A.

Examiner

Mr. Terry K. Cecil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-12 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 10 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is indefinite because it depends from a canceled claim (claim 1).

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (U.S. 3,996,137), in view of McDuffie (U.S. 3,799,347). Cooper discloses a fluid filter that teaches the valve configuration of claims 3 and 4. The bottom of figure 2 thereof is reproduced on the next page.

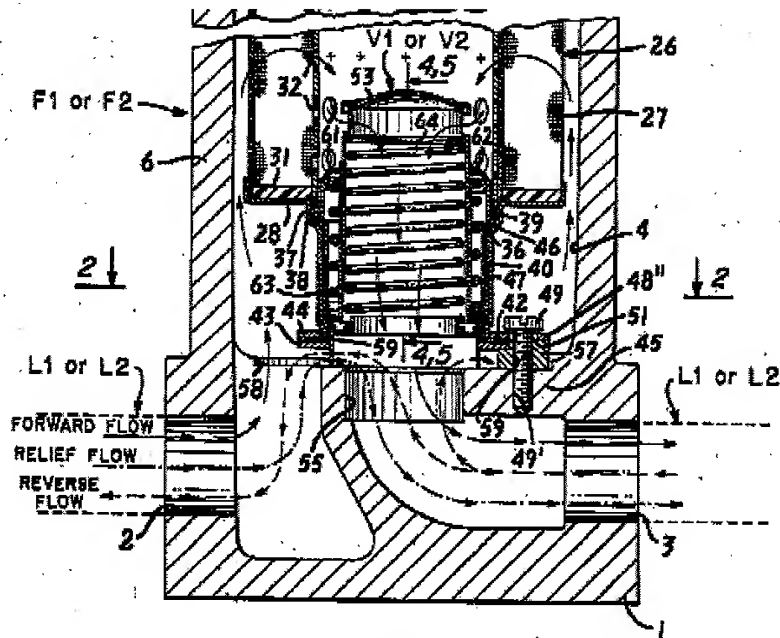


FIG. 2

The first, second, third fluid flows and the arrows thereof are shown above as the forward flow, relief flow, and reverse flow, respectively [as in claim 3], wherein the first flow path includes the inlet 2, the space between the filter element 27 and the housing 6, the filter element, a central passage 35, and the outlet 3 [as in claim 4]. Cooper does not teach the inlet, outlet, and filter to be in a coaxial arrangement. However, such is shown in the art of McDuffie (see figure 1) [as in claim 3]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the inlet and outlet (2,3) of Cooper to be in the coaxial arrangement of McDuffie, since McDuffie also teaches a filter/valve configuration wherein the inlet and outlet can be reversed. The modification would allow the invention of Cooper to be used in hydraulic systems where a symmetric configuration is required (e.g. systems disclosed in

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col. 1, lines 11-15 of McDuffie). It is also pointed out that Cooper teaches other arrangements (other than those shown) are possible. See col. 9, lines 20-25.

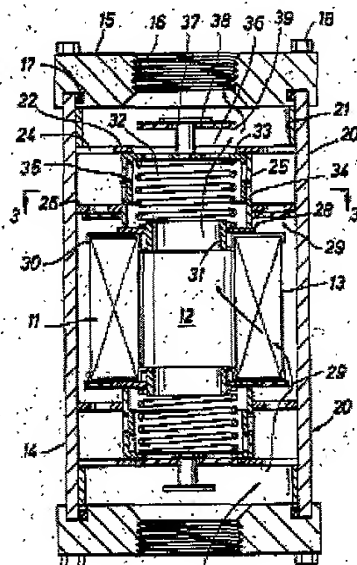
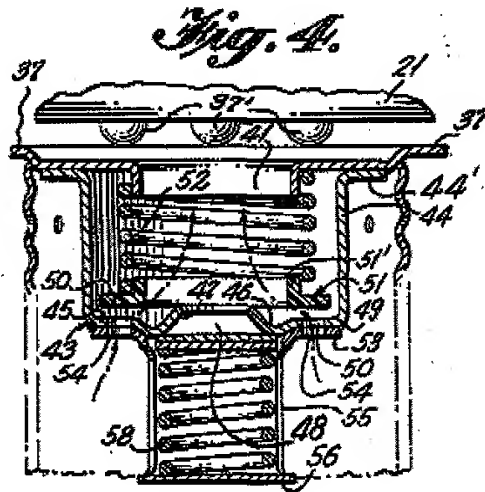


FIG. 1

McDuffie

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4. Claims 2-9, 11-12 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humbert (U.S. 3,456,800) in view of McDuffie. Figure 4 of Humbert has been reproduced below.



As shown above, Humbert discloses a first retainer 44 (or alternately 37 and attached wall 34), a first spring, a first disk 51, a second retainer 55, a second spring, and a second disk 57 (see figure 2), wherein the disks are operative to compress in opposite directions toward their respective retainers. In addition, as shown in figure 1, Humbert teaches the aforementioned dual direction bypass valve in combination with a filter 33 having an inlet and an outlet (12 or 13) and an end cap separating the first and second disks (bottom portion 45 can be viewed an end cap [as in claim 21] between disks 51 and 57 and the retainer—37 and attached wall 34) [as in claim 2].

Humbert also discloses a first fluid flow path (shown in figure 1), a second fluid flow path allowing a forward flow bypass means (shown in figure 2); and a third fluid flow path allowing a

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reverse flow bypass means (shown in figure 4) wherein the reverse flow bypass means is disposed adjacent the forward flow bypass means [as in claim 3].

As shown in figure 1, in the first fluid flow path, fluid entering inlet 12 flows through apertures 32 in the first retainer (37 with attached wall 34) into a space between the filter element 33 and wall 34 (which is also between the filter media and an interior face of a central wall of the chamber), through the filter media 33 into a central passage and out the outlet 13 [as in claims 4 and 5], wherein the spring 30 is considered a stabilizing spring that is disposed between the first retainer and the housing which results in holding the first retainer in place [as in claim 11].

As shown in figure 4, Humbert also discloses the reverse flow bypass means to include a first disk 51 against a plurality of peripheral holes 50 in the end cap 45 operable to open toward the first retainer means (37) for fluid to bypass the media [as in claim 6].

As shown in figure 2, Humbert also discloses the forward bypass means to include a second disk 57 against a central opening 48 in the end cap 45 operable to open toward the second retainer means 55 to bypass the filter media [as in claim 7], wherein the forward flow bypass means (the second fluid flow path) leads through the front valve body (that includes 44) and through the rear valve body (that includes 55) to the outlet 13 [as in claim 8] and the reverse bypass means (third flow path) leads from outlet 13 through the central passage, front valve body (via holes 50) to bypass the rear valve body (including 55) and the media [as in claim 9].

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Humbert does not teach the inlet, outlet and filter being in a coaxial arrangement. However, such is shown in the art of McDuffie (see figure 1) [as in claims 2, 3 and 12]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the inlet and outlet (2,3) of Humbert to be in the coaxial arrangement of McDuffie, since McDuffie also teaches a filter/valve configuration wherein the inlet and outlet can be reversed. The modification would allow the invention of Humbert to be used in hydraulic systems where a symmetric configuration is required (e.g. systems disclosed in col. 1, lines 11-15 of McDuffie). It is also pointed out that the outlet of Humbert being in the opposite end of the housing would considerably shorten the outlet flow passage, providing the additional benefit of less pressure necessary for filtering—resulting in an energy savings. It is also pointed out that Humbert teaches his invention is only limited by the claims and not in any way limited by the structure in the specification—claim 1 of Humbert does not limit his housing structure have outlet and inlet ports at opposite ends and the filter element coaxially arranged therebetween.

As for the additional limitations of claims 12 and 15-18, Humbert, in view of McDuffie, as expanded above, teaches all the limitations thereof.

As for claims 19 and 20, the drawing symbol for disk 51 (alternating diagonal thin and thick lines) indicates the disk is made of plastic [as in claim 19] and the drawing symbol for the retainer, spring and end cap (diagonal thin lines) indicates the elements are made of metal. See MPEP 608.02.



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5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper in view of McDuffie, as applied to claim 3 above, and in further view of Gizowski (U.S. 6,139,737).

Cooper, in view of McDuffie, has been expanded above and teaches all the limitations of claim

3. Claim 10 has the limitation of a magnet positioned around a side wall of an interior face of the chamber, which attracts and retains magnetically susceptible particles in the fluid. Gizowski teaches such a magnet: 18 of figure 2. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the magnetic of Gizowski in the filter of Cooper, as modified by McDuffie, since Gizowski teaches the benefit of removing metal particles that may damage mechanical components of a vehicle (col. 1). Such a benefit is also desired by Cooper (col. 1, lines 55-62). Since fluid in both prior art references flows between the housing and the filter element before being filtered, such a structural modification is possible.

#### ***Response to Arguments***

- Applicant's arguments filed 6-18-2003 have been fully considered but are moot in view of new ground of rejection necessitated by amendment.

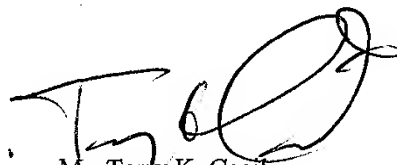
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6. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (703)305-0079 for any inquiries concerning this communication or earlier communications from the examiner.

Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:00a to 4:30p, on at least four days during the week M-F.

- The group receptionist can be reached at (703)308-0661 for inquiries of a general nature or those relating to the status of this or proceeding applications.
- Wanda Walker, the examiner's supervisor, can be reached at (703)308-0457 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.



Mr. Terry K. Cecil  
Examiner  
Art Unit 1723

TKC  
September 25, 2003